

Tilburg University

Police punishment and the infrapolitics of (online) anti-police protest

Mutsaers, P.; van Nuenen, Tom

Publication date:
2016

Document Version
Peer reviewed version

[Link to publication in Tilburg University Research Portal](#)

Citation for published version (APA):

Mutsaers, P., & van Nuenen, T. (2016). *Police punishment and the infrapolitics of (online) anti-police protest*. (pp. 1-20). (Tilburg Papers in Culture Studies; No. 164). https://www.tilburguniversity.edu/upload/9f6fac5d-c97a-4d30-9b11-6d6f03bbcfba_TPCS_164_Mutsaers-vNuenen.pdf

General rights

Copyright and moral rights for the publications made accessible in the public portal are retained by the authors and/or other copyright owners and it is a condition of accessing publications that users recognise and abide by the legal requirements associated with these rights.

- Users may download and print one copy of any publication from the public portal for the purpose of private study or research.
- You may not further distribute the material or use it for any profit-making activity or commercial gain
- You may freely distribute the URL identifying the publication in the public portal

Take down policy

If you believe that this document breaches copyright please contact us providing details, and we will remove access to the work immediately and investigate your claim.

Tilburg Papers in Culture Studies

Paper 164

Police punishment and the infrapolitics of (online) anti-police protest

by

Paul Mutsaers & Tom van Nuenen
(Tilburg University)

p.mutsaers@tilburguniversity.edu

T.vanNuenen_1@tilburguniversity.edu

June 2016



This work is licensed under a
Creative Commons Attribution-NoDerivatives 4.0 International License.
To view a copy of this license, visit <http://creativecommons.org/licenses/by-nd/4.0/>

Police punishment and the infrapolitics of (online) anti-police protest

Paul Mutsaers and Tom van Nuenen

Abstract

Diarmaid Harkin recently called for a theory of police punishment and its public acceptance. He stated that police violence is ‘provided with a warranty of approval and encouragement from larger, aggregate, deeply held emotions and sensibilities’. We lend our support to his demand for a penal theory of police, but disagree in regard to his explanation of the relative quiescence of “the public” in the face of police punishment. We do so on empirical, epistemological and methodological grounds by (1) centralizing anti-police protest and resistance instead of consensus and acceptance of police punishment; (2) raising the epistemological question “how do we know protest/approval?” and (3) addressing the methodological aspects of studying online resistance, or “hashtag activism”, in anti-police protest. Central to our thesis is James Scott’s theory of hidden transcripts and the infrapolitics of resistance.

Keywords

Police punishment, (online) resistance, hashtag activism, infrapolitics, hidden transcripts

"Ordered you?" he said. "He ordered you. Dammit, white folk are always giving orders, it's a habit with them. Why didn't you make an excuse? Couldn't you say they had sickness—smallpox—or picked another cabin? Why that Trueblood shack? My God, boy! You're black and living in the South—did you forget how to lie?"

(Dr. Bledsoe in *Invisible Man*, Ralph Ellison, 1952)

I

Inequality typically constitutes the relationship between police and policed. Without undue distortion we can apply Becker's (1967) notion of the "hierarchy of credibility" to understand this relationship. Police and the public are part of a system of ranked groups and this system allocates to members of the highest groups the right to define a situation—to tell relevant others what "really" happened. It is also a relationship that is nonreciprocal. Tongue in cheek, Becker writes that 'no one proposes that addicts should make and enforce laws for policemen' (1967: 241). Those subjected to police intervention are usually also denied the luxury of what Scott (1990) calls "negative reciprocity," that is, trading a slap for a slap, an insult for an insult. What's more, police work is invested with certain responsibilities that are incumbent on an officer's station, and no matter how many rules and regulations confine police officers in their work, a certain degree of discretionary authority always remains inviolable.

Having in mind these qualifications of police work—hierarchy, nonreciprocity and discretion—it is small wonder that Harkin (2015) recently called for a theory of police punishment and pain delivery. He rightfully argues that we should complicate the strictly legal definition of punishment as a business of courts and prisons only, by expanding what counts as punishment. To better understand "state pain-delivery," he claims that police scholars should draw on the sociology of punishment. Just like custodial institutions, police forces can cause social and physical deprivation—of liberty, autonomy, property and security. He provides convincing examples of police punishment that can also be found in recent studies, which show that the ideal type of police as the gate of the criminal justice system is confounded by the social reality of police punishment.

Stop-and-frisks, for example, can be experienced as a loss of "face" or "social value" by those subjected to them. This was confirmed in Fassin's (2013) ethnography of a Parisian anticrime brigade, which offers numerous accounts of the "embodied memory" of ethnic minority youngsters who run away from the police in a desperate attempt to avoid another round of humiliating treatment. These "petty states of exception" (Fassin 2014: 105), which are defined as moments of 'non-respect to the rule of law within democratic regimes' that lead to a suspension of legal procedures and affect certain populations (the disadvantaged, marginalized, and racialized), were

also observed in the Netherlands. There, we recorded similar humiliating police practices including what we have called “micro-deportations”; the banishment of undesired and often homeless migrants to the ghostly quarters at the outskirts of a police district (e.g. Mutsaers, 2014). Equally punitive are the larger scale deterrence and deportation policies of Europe’s border police and the purging business of bordering Europe (Andersson, 2014; Mutsaers, 2016). Additionally, Harkin refers to the financial deprivation by police through ticketing, something that reminds us of the recent scrutiny of the Ferguson Police Department carried out by the Civil Rights Division of the U.S. Department of Justice, occurring in the aftermath of the shooting of Michael Brown and the riotous protests that followed. It was concluded that ‘Ferguson’s law enforcement practices are shaped by the City’s focus on revenue rather than by public safety needs’ (U.S. Department of Justice, 2015: 2). By using cops as “tax collectors” to plug a hole in the city’s finances, and by particularly targeting African Americans in the community, unnecessary harm was inflicted (see also *The Economist*, 2015). Also, such practices of racial profiling may be the ‘origin of harmful criminality’ (Harkin 2015: 47). The criminalization of particular communities may amplify criminal behaviour in these communities, an argument that Harcourt (2007) proposed almost ten years ago in his book on profiling, policing, and punishment in an actuarial age. Such effects clearly come to the fore in Goffman’s *On the Run* (2014). Spending six years on 6th Street, pseudonymous for a mixed-income neighbourhood in Philadelphia, Goffman learned that African Americans residents saw the police as an occupying force and reacted accordingly (i.e., with violent law breaking). Finally, Harkin posits that police punishment is expressed in the deprivation of liberty and life, respectively exemplified in two anthropological works. Verdery (1996), in her holistic study of Romania, provides her reader with vivid descriptions of every last residue of privacy that is taken away by the Romanian secret police, the *Securitate*. Denyer Willis writes about one of his first experiences with the Military Police in São Paulo: ‘With sirens in chorus, there was a crashing of metal and concrete, an abbreviated commotion and two gunshots in quick succession. Pop. Pop... A vehicle pursuit had ended with police shooting a man’ (2015: xv).

Others have argued before that there is a “nervous tension” between police and human rights law (e.g. Hornberger, 2010; Garriot, 2013) and that police officers who see themselves as agents of social discipline think of police ‘not as a start of a continuing legal process’ but as its end point (Zedner 2004: 134). Yet, Harkin correctly argues that too little heed is given to the public reception of police punishments. This is where his contribution to the debate on police punishment is most interesting. He focuses particularly on the relative quiescence of the public in the face of police punishment and argues that

the origins of the “acceptability” of “police pain-delivery” can be usefully understood as a function of punitive passions in a Durkheimian sense. That is, police-use-of-force and violence—justifiable or not—stokes activity in the “collective consciousness,” constructing social bonds and solidarity, rather than destroying them as police studies typically suggest (2015: 48).

Adopting a Durkheimian perspective, Harkin states that the damage caused by public constabularies in their effort to fight crime is widely accepted because it is connected to popular sentiment and entrenched in a collective consciousness. In other words, police punishment is a “function of popular emotion,” as stated in one of the subtitles of the article. Although we acknowledge and respect its merits, we are nonetheless going to criticize this Durkheimian logic on empirical, epistemological and methodological grounds in, respectively, sections II, III and IV. We do so, first, by centralizing anti-police protest and resistance instead of consensus and acceptance of police punishment (Section II). We agree with Harkin that popular approval of police comes from those outside the targeted, marginalized groups of society, but contend that he omits to mention actually existing forms of resistance—an omission that may lead to a questionable consensus model of law (and its enforcement). Second, we are going to raise the epistemological question “how do we know protest?” (Section III), making the claim that Harkin’s focus on visible forms of support/protest makes it very hard to distinguish resistance, accommodation, defeat and fear in the face of police punishment. The notion of in/visibility is further complicated by another question, “how do we know the public?” (Section IV). With this last question we wish not to confine ourselves to abstract terms, but to also consider some methodological particulars that may help us understand the multiple publics of society—especially when they are situated in digital contexts. Guided by James Scott’s notion of “hidden transcripts” we emphasize the need to study more imperceptible types of resistance and the complex, interlinked nature of plugged-in publics and their online, non-embodied, and thus less visible protests against police. Due to a lack of data on this topic, we will not address the leverage that different “communities of resistance” have when it comes to changing police (punishment) within and across states. Our aim is more modest: we will explore potential routes that can be taken to get a better grasp of (online) anti-police protest in the face of police punishment.

II

Harkin argues—in lieu of Durkheim—that protest against police is conspicuously absent because the police generally receive much popular support, that is, because police punishment is ‘conditioned by popular sentiment and sensibilities’ (p.44). In other words, society influences what is and is not accepted as “acceptable police behaviour.” The groundwork of this statement was laid in Durkheim’s *The Division of Labor in Society* (1997[1893]: 28), where he had written that ‘law reproduces the main forms of social solidarity’ in a given society. In principle this idea is sound and it resonates in the first studies in the field of legal anthropology, that distinct intellectual specialty that emerged in the 1920s with Malinowski’s *Crime and Custom in Savage Society*, which had anthropologists realize that law and society co-evolve and that the idea of a lawless society is in fact oxymoronic (Donovan, 2008; Malinowski, 1926). If we accept that law and society co-evolve, that they are mutually constitutive, we also ought to accept Durkheim’s insistence that ‘we should not say that an act offends the common consciousness because it is

criminal, but that it is criminal because it offends that consciousness. We do not condemn it because it is a crime, but it is a crime because we condemn it' (in Donovan, 2008: 49). As such, crime must be understood not as a natural but as a social fact, insofar as it needs to be explained by the sociality through which it is given meaning and the legal structure in which such meaning is inscribed and encoded. Thus, when police act (violently) to fight crime, they feel backed up by the dialectics of law and society.

We accept that law is inherent to the social structure and organization of society, *any* society as Malinowski and his intellectual progeny have argued, and that policed legality expresses and represents national unity (Gilroy, 1987). We agree, in that respect, with Harkin when he declares forthrightly that 'the police are iconic symbols of national and community identity... and as such can play a role in generating feelings of exclusion and inclusion' (p.47). Such "policing the nation" (Gowricharn and Çankaya, 2015) is widely reported and problematized, and Harkin too voices his critique by asking rhetorically: 'how many minority youth need to be stopped-and-searched per day for it to be considered unacceptable?' (p.48).

Yet, for all our sympathy we must utter critique on Harkin's stance on police punishment as something that receives popular support and is—in any general, holistic term—*accepted*. Harkin does note the partiality of Durkheim's theory, yet the point he distills from it is majoritarian nonetheless (i.e. mainstream society accepts police violence). We read that '[t]he police, in these accounts, *reflect* social attitudes' (p.51), 'approval of the police largely prevails' (p.51) and 'the public are simply better equipped to evaluate the police, and most often they do so favourably' (p.52). This argument may or may not be epistemologically accurate, which is something that we will take up in the next section, but in any case it comes at the cost of overlooking the anti-police protests of those who take the brunt of police punishment. Harkin's argument that there is a prevailing approval of the police is made in a century in which one can point a finger at the atlas and anywhere find public outcry and protest against police within close proximity. Scanning the major events of the twenty-first century, we can only conclude that police violence is one of the main problem portfolios for contemporary statesmen, as it looms large in public debates and stands front and center in protests and uprisings. These protests are a global phenomenon. Immediately springing to mind are the widely mediatized deaths of African American citizens, with the police shooting of Michael Brown presumably best stored in public memory. His body, as well as the trail of blood next to it, was left to public display for hours after Officer Wilson had pulled the trigger in Ferguson, Missouri, triggering a nationwide uproar that lasted for months. The U.S. is not the only country where public protests against police violence have occurred recently: In The Hague, the streets were engulfed with protesters grieving and requiting the death of the Aruban Mitch Henriquez, who died of asphyxiation after he was held in a chokehold by five police officers (Mutsaers, submitted).¹ Numerous other cases of public outcry have led to protest movements in France, the UK, Turkey, Venezuela, Brazil, Uganda, Kiev, Hong Kong, not to forget the Arab Spring and #Occupy movement—all of which either began with or were centrally related to police violence (Mutsaers, Simpson and Karpiak, 2015).

Looking more closely at these manifest and multifarious acts of resistance, we soon realize that they articulate the big divides in society. In Uganda, for instance, we have seen clashes with police that center on the issue of sexuality. After years of political contest, president Museveni signed the Anti-Homosexuality Act into law (which was later struck down by Uganda's constitutional court), a political act that was both damned and celebrated and stirred protests that were met with sweeping police powers enabled by the 2013 Public Order Management Act (Human Rights Watch, 2015). These police interventions led to even more protests. One homosexual Ugandan who just got married in a secret gay-wedding ceremony strikingly said: 'I don't feel like I'm violating the law; I feel like the law is violating me.'² Similarly, we have seen masses of angry women in India who took to the streets their discontent with police's underenforcement of rape crimes, exemplifying a form of resistance against police that has a clear gender basis (with Jauregui [2013] we think of underenforcement as a form of police violence as well). In Denyer Willis's (2015) disturbing description of the "shared sovereignty" involving both police and organized crime groups in Brazil, we see the emergence of class-based fault lines; poor neighbourhoods that are destitute of any form of police protection, triggering organized crime groups to fill the security void and develop parallel judiciary systems—with the accompanying accoutrement of law (tribunals, security guards, executors, etc.). Sadly, this shared sovereignty, this shared system of routinized killing, is often turning favelas into wholesale battlefields. Finally, in France, the U.S. and the Netherlands we see that protesters respond to the racialized character of policing (Bonilla and Rosa, 2015; Fassin, 2013; Mutsaers, submitted).

Again, while Harkin rightfully argues that popular support for the police can be expected to come from those outside the targeted, marginalized groups discussed above, he omits to mention actually existing forms of resistance outside mainstream society. As such, he overemphasizes the consensus model of law (enforcement) and does so at the expense of a conflict model which takes law (enforcement) as 'one of the focal points of conflict and struggle in modern societies, a major means by which power is legitimized, and the form in which coercion is most routinely exercised' (Lukes and Scull in Donovan, 2008: 50). This citation reminds us of Quinney's *The Social Reality of Crime*, in which he argued along the same line that law, rather than being a reflection of society in general, is actually a representation of the interests of certain classes or parts of society; segments that have the power to translate their own interests into public policy and the way it is policed (Treviño, 2000; Quinney, 1970). In contradistinction to a consensus-based model of society that implies and relies on shared mentalities, Quinney adopts a model centered on conflicts among different groups over the social meaning and function of law. Through his vision of society we come to understand law enforcement as a site of conflict. While none of this is denied by Harkin, his usage of general notions such as "collective consciousness," "popular sentiment," and "the public" and his silence with respect to existing protests, provides a view on police legitimacy that, at its core, can only be maintained if we accept and deem legible the social congruency on which it is based.

Finally, Harkins develops a prudence argument to explain the popular support of police violence: 'views on the police are anchored in an understanding that they are necessary,

indispensable and it is only prudent to maintain support in the police as they deliver an essential, and often virtuous, public service.’ (p.52). He mentions the “Dirty Harry problem” (cf. Jauregui, 2013; Klockars, 1980) that police are confronted with in their attempts to maintain law and order; attempts that are sometimes “grubby,” “messy” and “unpleasant” but necessary nonetheless. Again, however, a bias in selection may be diagnosed. The prudence argument surely helps us understand some sections of the public in their dealings with the police—but again, what idea of any coherent public can we derive from it, if it falls short in many other contexts? The contributors in *Law and Disorder in the Postcolony*, a volume edited by Comaroff and Comaroff (2006), share empirics of policing that demonstrate police’s complicit role in the creation of *disorder*—not order. This interconnection of law and disorder knows various paths. Peter Geschiere, writing about Cameroon and South Africa, argues for instance that tough policing and a fetishizing of the law may in fact ‘radically heighten people’s feelings of intense insecurity’ and as such give fear of disorder metaphysical proportions (2006: 221). But more direct relations can be found as well, such as in the work of Denyer Willis (2015), mentioned earlier, which uncovers a police/state-created security void—or, abandonment by design (Denyer Willis, 2016)—turning Brazil’s favelas into frontlines. In a similar vein, Comaroff and Comaroff argue that certain postcolonial contexts are best described as a ‘palimpsest of contested sovereignties, codes, and jurisdictions—a complex choreography of police and paramilitaries, private and community enforcement, gangs and vigilantes, highwaymen and outlaw armies’ (2006: 9). While such a condition can of course not be solely ascribed to police (in)action, we should also not overlook the complicity of police in creating disorder—and, thus, the conditionality of the prudence argument, which seems fit only to describe those people lucky enough to have never been subjected to these forms of disorder.

III

Now that we have looked at some alternative empirics of policing (and police-community relations), we arrive at a more fundamental epistemological question: how do we know protest? How can we calibrate approval versus resistance with respect to police punishment? Harkin refrains from giving us a clear definition of public approval, but it appears to us as if the presence/absence of visible protest serves as his calibration. Such a face value epistemology is problematic. Take, for instance, the following notes of Scheper-Hughes (2006: 152-53) on death squads and police violence in Brazil:

Why would ordinary people accept violent attacks on street children and marginal youth as the legitimate business of the police? How does one explain this extraordinary consensus? As described in *Death without Weeping* (Scheper-Hughes 1992), the everyday experience of violence leads poor people to accept their own deaths and those of their children as predictable, natural, *cruel but usual* events. The history of authoritarian rule—whether by local landowners, political bosses, or military police—extinguished any incipient culture of protest. A deep lack of trust in the legal and judicial systems, which were largely untouched by the democratic

transition, contributes to a cynical attitude towards the possibilities of real political change (*italics original*).

An epistemology that leverages marked and evident protest alone is not well equipped to distinguish resistance, accommodation, defeat and fear. Harkin asks “what is punishment?” but not “what is resistance?” Not seeing visible signs of resistance, of course, does not mean that resistance does not exist: this would leave undiscussed all theories of power that are worthy of mention. Obvious references can be made to the work of Foucault on the micro-physics of power or to Gramsci’s notion of hegemony, but let us this time concentrate on an equally relevant but slightly less-known author—the political anthropologist James Scott. Scott, quite relevantly to our case, distinguishes what he calls “public transcripts” from “hidden transcripts.” He defines the public transcript as follows:

With rare, but significant, exceptions the public performance of the subordinate will, out of prudence, fear, and the desire to curry favor, be shaped to appeal to the expectations of the powerful. I shall use the term *public transcript* as a shorthand way of describing the open interaction between subordinates and those who dominate. The public transcript, where it is not positively misleading, is unlikely to tell the whole story about power relations (1990: 2, *italics original*).

To grasp what this may mean in practice, we can turn to one of the earlier accounts of police written by an anthropologist. We are referring to Clifford Geertz’s description of the police raid that he observed (and ran away from) and that took place in response to a Balinese cockfight (Geertz, 1973, in his chapter *Deep Play*). Keen to produce the sort of ethnography that is suffused with precise and protracted descriptions of small facts and the circumstances in which they take place—a “thick” description—Geertz gives the raid the sort of sensible and evocative actuality that allows us to think both concretely and imaginatively about broader issues such as power and resistance. He begins with a description of how in the midst of that particular match in 1958 a ‘truck full of policemen armed with machine guns roared up’ (p.414). They swing their guns around like ‘gangsters in a motion picture’, scattering the audience and actors in the unauthorized cockfight into all directions: ‘People raced down the road, disappeared headfirst over walls, scrambled under platforms, folded themselves behind wicker screens, scuttled up coconut trees’ (*ibid*). Their public performance seems to be in keeping with their subordinate position vis-à-vis police. Subordination, deterrence and fear seem to rule the game. The public transcript, the grammar of the social intercourse, is closely followed. On closer inspection, though, an inspection that is enabled by Geertz’s focus on the deeper structure, we discover behind the scenes Scott’s hidden transcripts through which dissent to the official transcript of power relations is voiced. The velocity of people’s escape from the raid—which would have had Geertz stand slack-jawed if he had the time for it—and the speed with which people turned life back to normal, they all read like a collective theater or a joke ridiculing the vigilant policemen. One villager whipped out a table,

some chairs and a cup of tea and started to sip it, while the village chief ran to the river, undressed and plunged in so that he could say, when the policemen arrived, that he had been bathing the whole time. All villagers knew exactly what was happening and all kept complete silence.

What we have here is an incident—a cockfight and a police raid in Indonesia—that is multilayered. On one level we find a public performance that is perfectly in tune with the power relations and role expectations that have people express their subordination and mortal fear of police and the state power that backs it up. On another level, though, we find the hidden transcript that lies beneath the surface and that allows people to collectively “play innocent” and secretly utter a critique of power behind the back of more powerful agents. This hidden critique of power is best described as what Scott (1990) calls the *infrapolitics* of subordinate groups; an ‘unobtrusive realm of political struggle’ (p.183) characterized by ‘low-profile forms of resistance’ (p.19) that includes playing fool, ridicule, gossip, disguised aggression, and folktales. To be able to trace and identify a hidden transcript—and to distinguish it from the public transcript—one needs to go offstage, descend into detail and speak to people when they feel at liberty to utter their subversive discourses. This requires going beyond an epistemology of face value (such as Harkin’s) to one that appreciates the stratification and hierarchy of meaningful structures (such as Geertz’s and Scott’s).

There is yet another level of meaningful resistance against police in the cockfight case, though, which has to do with the stubbornness of the villagers involved, who continued to organize these fights despite the fact that they faced the “law’s revenge.” At the time Geertz made his field notes, cockfights were in principle declared illegal by the Republic (as they were by the Dutch) and villagers knew that every now and then some of them would, as punishment and correction, be exposed by the police in the tropical sun for a day or so, and possibly end up six feet under. To value the fights as a means of expressing the “Balinese way of life” and continue with them despite their penalization is a way of resisting the socio-political order that is policed. This comes down to what one of the founding fathers of critical criminology, Richard Quinney (1970) dubbed the “politicality of crime.” The act against the law, a “crime,” may very well be seen as a political act of resistance (see also Eric Hobsbawm’s (1969) notion of social banditry).

In sum, Harkin poses a refreshing question about why many social groups seem to deny, be indifferent to or outright support police violence—but what “seems”, may, in the end, not constitute the most accurate seismography of the range of public attitudes. Restricting ourselves to moments of explosion and turmoil when people breach the public transcript and storm the stage means to ‘focus on the visible coastline of politics and miss the continent that lies beyond’ (Scott, 1990: 199). The land of hidden transcripts, undercover speech and silent acts of resistance against police is yet to be properly charted, but we trust that many traces of earlier explorations can be found in extant work. This is not the time nor place for such an exploration, but see for example Orwell (2009) for a good starting point.³

Of course, none of this is to argue that silence and the absence of visible resistance ought to be automatically interpreted as a form of hidden protest against police. Geertz’s and Scott’s encouragements to appreciate the stratification and hierarchy of meaningful structures, to go

offstage, descend into detail and speak to people (i.e. to give thick descriptions of reality to find a deeper truth) are exactly stimulating us to investigate diligently, on a case-by-case basis and without presuppositions, how people relate to police. Such investigations may yield a variety of outcomes, which are all very much context-dependent. In some cases, people murmur their consent with police violence, being too afraid to thwart police (e.g. Scheper-Hughes, 2006); in others they keep themselves from publically approving police, fearing reprisals from organized crime groups (e.g. Denyer Willis, 2015). Even more complex are Hornberger's (2011) descriptions of the informal privatization of policing in South Africa, leading to a "your-police-my-police" situation in which those who are (violently) overpoliced by some officers turn to different officers to demand punitive police action against others in the community (see also Owen and Cooper-Knock, 2015, on South Africa *and* Nigeria). Such an infatuation with extralegal enforcement fuels approval of, as well as resistance against police at the same time.

To distinguish silent or hidden protest from accommodation, fear, defeat, or apolitical unsubmitiveness (if there is such a thing), we need to go beyond the bounds of information directly and superficially available and venture up and down the hierarchy of meaningful structures. Only then can we begin to distinguish public performances from hidden transcripts. In what comes next, we underline the importance of including online material for such a venture.

IV

Enquiring into the hidden transcripts of protest leads us into the digital domain. The notion of the public—a multifarious, stochastic and superdiverse composite of social backgrounds, voices and interactions—is critically compounded by the fact that many public expressions nowadays come to rise in an online environment; a myriad of responses against police violence that we have discussed above can be found there as well (e.g. #Ferguson, #BlackLivesMatter #JusticeForMitchHenriquez, or #IfTheyGunnedMeDown). Often times, these expressions of grief or frustration are extensions of offline protests. They differ, however, in that the kind of "groupness" emerging in these spaces requires neither strong, lasting bonds grounded in shared bodies of knowledge, nor any temporal or spatial co-presence—something that is traditionally conceived of as a prerequisite to "community." (Blommaert and Varis, 2015). With translocality being the norm in online interaction, it becomes exceedingly difficult to apply traditional understandings of community—and police-community relations, for that matter.

If we do not take the transformations of the channels and modes of communication into account, we may conclude that protest against police is in certain times and places either absent or limited to previously studied offline dimensions such as graffiti, sit-ins, die-ins or marches (e.g. Taylor, 2015). This would be regrettable considering the potential power and distinctiveness of online activism, alternatively dubbed "hashtag activism" (Bonilla and Rosa, 2015). Fact is that we simply do not know how much of such protest transpires online: especially the more politically or legally sensitive transgressions are funneled through what is sometimes called the "dark web," through Tor browsers, proxy servers and otherwise encrypted messages (cf. Weimann 2016).

Taking a step towards “regular” and measurable online interactions, we tend to find a different kind of invisibility when it comes to gauging public opinion, which has to do with the political economy of the interaction between humans and machines. These interactions constitute a novel computational regime of knowledge and work that has been captured under the moniker of “heteromation” by Ekbj and Nardi (2014). Through several examples, they point out the necessary human involvement in the addition to the commodity value of online platforms (by creating content, by leaving likes, by writing comments and so on), often involving affective rather than material rewards for those performing the labour. These forms of work are then filtered and leveraged by proprietary computational systems—one can think of Twitter’s trending topics, processes that tend to give certain prevalent topics a further ‘bump’ in popularity. While these forms of labour may in many ways lack to be properly acknowledged or rewarded, and users may often not be aware of the implications of their work (who it is sold to, or who benefits from it), users become deeply implicated in the computationally leveraged value that derives from their consumer behaviour, and in ways or scope they might not be aware of. Again, while the effects may be invisible to most, they are existing vectors of power that require our attention: we cannot permit to confuse these stochastic, invisible and “narrow” phenomena, which co-constitute Harkin’s “wider public,” with their absence.

Yet, while the results of people’s interactions and user behavior may be unpredictable and obfuscated, we should not forget that in online environments, we are dealing with representations of people, not with those physical people themselves. In the space of the Internet, ‘self and society must be represented, made to exist in a process by which they are translated into the conventions of the medium ...: They are not “there” otherwise’ (Waskul 2005: 57). This means that the Internet is charged with possibilities for re-imaginings, counter-stories and dissident voices. Waskul in this context talks about *ekstasis*: circumstances where people get to stand outside the totality of structural positions they normally occupy—implying that, where bodies on the street may seem harmonious, docile, or indeed invisible, these same bodies may prove to be part of systems of defiance and conflict. While some consider online forms of activism a poor and transient alternative to “real” activism (sometimes by means of explaining it as “slacktivism”), some caution about the geriatric distinction between “real” and “virtual” should be exercised here. For one, we should recognize that these expressions of empathy with the oppressed, exploited or wrongfully harmed are genuine civic concerns. Whether they are effective or not might not even be the point: we cannot simply categorize them as insignificant by arguing that “the public” seems to condone established power relations.

Additionally, we might add that online expressions often *are* effective. A salient example can be found in the online use of surveillance systems; to live in a “hyper-mediatized” and “high-surveillance” context means also that camera surveillance is no longer only used by state apparatuses to keep tabs on citizens, but also increasingly by citizens as a form of counter-surveillance (Greer and McLaughlin, 2010; see also Koskela, 2004).⁴ The ubiquity of “cameraphones” and online file-sharing has greatly augmented the visibility of executive police (Brown, 2016). This augmentation has led to the micro-emancipatory possibility to come up with

counter-narratives and thus to destabilize Becker's hierarchy of credibility, which we mentioned in our introduction. In the words of Brassard and Partis, new platforms of narrative formation such as social media 'activate imaginative ways of relating lightly packaged information (rather than tightly narrated facts) to and with diffuse individuals and collectivities; social media connectedness and exchange are part of a narrative-building apparatus that rebuffs static tropes and hegemonic imagery' (2015: 8). We can take as an example the earlier mentioned death-by-cop case that caused civil unrest in Netherlands in the summer of 2015—a case that is worthwhile to discuss at some length.

His mouth agape and his breathing barely detectable, the Aruban Mitch Henriquez was surrounded by police officers while lying on the ground with his hands cuffed behind his back and his eyes shut. Like many of the encounters of African Americans with police in the United States this "arrest gone wrong" was captured on video with a smartphone, directly uploaded on the web and thrown into the public spotlights. In contrast to a recording like the one capturing the Rodney King beating in Los Angeles, 1991, this recording can easily be retrieved with a few keystrokes. When played, one can hear the familiar background voices expressing indignation and outrage coming from people who were present at this uncomfortable site of police violence. We say "familiar" because the upsurge of hashtag activism against police has given such voices a firm place on social media such as Twitter and Facebook.

Henriquez, father of three, had travelled to the Netherlands for a family visit, coming from Aruba—one of the four constituent countries that form the Kingdom of the Netherlands. On Saturday the 27th of June, 2015, he was at a UB40 concert at Night at the Park, a summer concert in The Hague. There he made the mistake to underestimate the power of denied negative reciprocity, which, as stated in our introduction, characterizes hierarchical relations of the kind that exists between police and policed: do not trade a slap for a slap, an insult for an insult, or a bad joke for a bad joke. In the company of several police officers, Henriquez had touched his crotch while shouting that he had a gun in his pocket. According to some bystanders this was a joke: in a Caribbean context "gun" can refer to impressive male genitals. The police responded and attempted to bring him into custody and later declared that he had resisted his arrest—the proverbial trading of a slap for a slap. Henriquez had "traded" twice and paid for it with his life. Results from the autopsy indicate that he died of asphyxiation after being held in a chokehold and being crushed by five officers who sat on his body. The National Department of Criminal Investigation has ruled out that he was carrying a gun—nor, as the toxicology report pointed out, had he used a lethal dose of drugs or alcohol. His death was a chokehold death and therefore a thorn in the side of the authorities, as chokeholds are nowhere described in Dutch law and are not trained at the Police Academy. They are not part of the rules of engagement, yet they are routine in discretionary policing.

The killing of Henriquez wrought havoc in the streets of The Hague as protestors occupied a particular neighbourhood—*de Schilderswijk*, known for its history of police discrimination—to voice their dissent. It was the devil-may-care way in which the case was perceived to be handled that made people fly into rage and pour torrents of scorn onto the Dutch criminal justice system –

the police in particular. At first, the Public Prosecution Service had stated in a press release that Henriquez had become unwell on his way to the police station, but the video proved contrarily, showing that Henriquez was already unconscious when surrounded by the five officers in question. Instead of following emergency protocol prescribing reanimation they heedlessly dragged him into a police vehicle. Being plugged into globalized circuits of communication people immediately started to invoke images online of Eric Garner, who died of a chokehold performed by NYPD officers, and Freddie Gray, who was forced into a police van by the Baltimore police while having a spinal cord injury. A broad range of hyperlinking and cross relating corrected the Dutch Prosecutors, who had to admit that Henriquez was already dying immediately after the chokehold was performed. A mobile device had reversed the hierarchy of credibility, which usually allocates the right to police members to define a situation, to tell others what “really” happened.

The series of protests in The Hague that followed were to a large extent organized and prepared ad hoc and online. Time and location were announced on Facebook and Twitter and locals as well as non-locals could tick a box indicating if they intended to come. The topic #mitchhenriquez quickly became the #1 trending topic on the Dutch version of Twitter, incentivizing those who had not heard of the phenomenon to give the case pause, or jump onto the proverbial bandwagon. While we have no specific data on the composition of this “community of resistance” in any authorized, certified sense of the word, (social) media coverage of the protests make it clear that this was a highly diverse collective. Their coming together can best be called, with Erving Goffman, a “focused gathering”—‘a set of persons engrossed in a common flow of activity and relating to one another in terms of that flow’ (in Geertz, 1973: 424). It was their online participation, their engagement with hashtag activism, which forged a sort of shared “political temporality” (Bonilla and Rosa, 2015). At these focused gatherings people met for a particular purpose and then dispersed again. Indeed, the low threshold of participation in online platforms fosters a great range of participation modes for protesters and may constitute a society of “networked individualism,” in which people are increasingly operating in online networks as individuals, rather than as part of a stable group. In such a world people connect, communicate and share information as persons, as autonomous centers—and not primarily as part of a family, work unit, neighborhood or social group (Rainie and Wellman, 2012; see also Van Laer and Van Aelst, 2010).

If we accept that public opinion is a stratified, heterogeneous and heteromated business that unfolds in widely differing online and offline environments, we should also ask the question how we might access and understand these interactions. Again: if the police “reflects” social attitudes (Harkin, p. 51), we would want to know what attitudes these are, where they find their outing, and why they are effectively hegemonic. In a largely online context, this should ultimately lead us to consider what constitutes a field site, as a place where we can learn about social attitudes, to begin with. Can a hashtag—or any other online label or metadata—be considered a field site? It is precisely this question that is raised by Bonilla and Rosa (2015) in their thought-provoking article on police, racial politics and social media in the U.S. Discussing the fatal police shooting of Michael Brown and its riotous aftermath in Ferguson (Missouri), they wonder if social media such

as Twitter are the ultimate “non-place” of supermodernity (Augé), a ‘transient site of fleeting engagement,’ or an instance of a “virtual world” (Boellstroff) with ‘its own set of socialities and forms of engagement’ (p.5). No, we should say to the distinction that is being made: this again means to mystify the “virtual,” and separate it from the “real.” It is a pessimistic reiteration of the first batch of Internet studies in which the Internet was considered a separate sphere of freedom that subverted offline normativities and allowed for new forms of community and identity. Online spaces were often conceptualized as distinct from their offline (or, to use that term again, “real life”) counterparts—see for instance the early work of Turkle (1995), or the widely distributed rebuttal to government of the Internet by Barlow (1996). Explaining digital interactions in this way—whether considering it as liberating or politically toothless—may help to explain why analyses like those of Harkin do not address “the public” in its stochastic *yet distinguishable* online formations.

How might these formations be distinguished, then? The challenge for future research on anti-police protests in interrelated online-offline sites is to think of them as combined in an extended field, and to take into account the networked traffic taking place within it (the interpenetration of meaningful structures in both spheres). This interrelation was obvious in the Dutch case described above, in which we saw a high degree of interactivity between offline events and online (micro) narratives. We might take one step further and think about the important methodological task of deciding on what to in- and exclude in online research, in order to provide insights about what a society’s publics are doing and thinking. The social scientist who goes online and collects data on ever-altering online platforms⁵ runs into a series of problems unique to online research—related to data demarcation, collection *and* analysis. One has to choose a method of gathering data, such as “nethnography” or—in a more quantitative fashion—scraping the web using either manually written scripts or out-of-the-box tools (e.g. a program such as Tweet Archivists for collecting hashtag threads). One needs to decide when to open the proverbial shutter and when to close it; can we only research topics that are no longer trending, or is an ongoing viral phenomenon fair game as well? How do we measure things like popularity if topics and interests are so multifocal that virtually any topic might become a controversy to someone? And as the dataset becomes larger, how do we decide on how to prune, transform and/or visualize it? These questions are obviously to be answered on a case by case basis—but as ethnographic methods are transposed to online spaces, they are rubbing shoulders with numerous methods for digital research that are as new as the territory. Besides importing standard methods from the social sciences and humanities to perform Internet research, we need to think about how to engage in natively digital methods (which, after all, searching and filtering for hashtags is an example of), capturing and analyzing digital objects such as hyperlinks, tags, search engine results and so on (cf. Rogers, 2013). All of these analytical tools, and the strategies upon their execution, can help us further our understanding of policing as a complex set of influences, impacts and “control flow” in which different publics are enmeshed. The distinction between those who idly stand by and judge policing from the sideline and those who are directly involved in its power relations is difficult to uphold.

We opened this text with an epigraph on in/visibility, a quote from Ralph Ellison's *Invisible Man*. The main character of this book is a black American in the 1930s, whose invisibility is no physical affair (as it was for the protagonists of HG Wells, Tolkien or Douglas Adams) but rather a social one. It is constituted by the narrator's need to construct several identities as a response to the humiliation, interpellation and deceit he has to suffer throughout his life—especially when interacting with police. The narrator ends the novel in a metaphorical state of incubation, dwelling beneath the New York City surface. There, he comes to a realization: he has to remain true to his own identity without sacrificing the responsibility to his community, and declares himself ready to emerge from the urban bowels. His current state of invisibility, in other words, can only be interrupted through a quite Gramscian projection of the future regarding the question of race and identity.⁶ That is, the only way to get to see and be seen in reality is dependent on one's capacity of envisioning what it should look like. One needs to drop an anchor point in the future in order to become visible at present.

We need to consider what constitutes in/visibility in a hybrid online space, and remind ourselves that the accuracy of our indexation is commensurate to the degree to which we can understand the phenomenon of online resistance at all. In this article, we have shown that the epistemology of Harkin is one of visibility: it focuses on overt public sentiments while it de-emphasizes concealed types of resistance as well as the complex, interlinked nature of plugged-in publics. Through examples we have suggested the connections and intersections between off- and online resistance, and more broadly between the Internet as a computer-mediated communication ecosystem, and other equally expansive and varied social and cultural environments. By doing so, we hope we have inspired criminologists, sociologists, anthropologists and others with an interest in police punishment and its production of various forms and spheres of protest. Publics may engulf the streets or sit tight behind their computer, their actions criminally violent or remarkably peaceful, their ideas exceptional or in keeping with the main drift of public attitude. But these unanticipated, divergent forms of behaviour and discourse may still encompass a dimension or vector of protest. And regardless of their soul and substance, such protests are ways of engaging with those in power, and too important to be underestimated.

References

- Andersson R (2014) *Illegality, Inc. Clandestine Migration and the Business of Bordering Europe*. Oakland: University of California Press.
- Barlow JP (1996) A declaration of the independence of cyberspace. Available at: <http://homes.eff.org/~barlow/Declaration-Final.html> (accessed 3 December 2015)
- Becker HS (1967) Whose side are we on? *Social Problems* 14(3): 239—247.
- Blommaert J and Varis P (2015) Conviviality and collectives on social media: Virality, memes, and new social structures. *Multilingual Margins*, 2(1): 31—45.

- Bonilla Y and Rosa J (2015) #Ferguson: Digital protest, hashtag ethnography, and the racial politics of social media in the United States. *American Ethnologist* 42(1): 4—17.
- Brassard L and Partis M (2015) Standing their ground in #Ferguson. *Anthropology News* 56(1—2): 8—9.
- Brown GR (2016) The blue line on thin ice: Police use of force modifications in the era of *cameraphones* and YouTube. *British Journal of Criminology* 56(2): 293—312.
- Comaroff J and Comaroff J (eds.) (2006) *Law and Disorder in the Postcolony*. Chicago and London: The University of Chicago Press.
- Denyer Willis G (2015) *The Killing Consensus: Police, Organized Crime, and the Regulation of Life and Death in Urban Brazil*. Oakland: University of California Press.
- (2016) Policing, ethnography and abandonment in Latin America. Available at <http://www.law.ox.ac.uk> (accessed 18 April 2016).
- Donovan JM (2008) *Legal Anthropology. An Introduction*. Lanham: Altamira Press.
- Durkheim E (1997[1893]) *The Divisions of Labor in Society*. New York: The Free Press.
- Ekbja H and Nardi B (2014) Heteromation and its (dis)contents: The invisible division of labor between humans and machines. *First Monday* 19(6): np.
- Ellison R (1952) *Invisible Man*. London: Penguin Books.
- Fassin D (2013) *Enforcing Order: An Ethnography of Urban Policing*. Cambridge and Malden: Polity Press.
- (2014) Petty states of exception: The contemporary policing of the urban poor. In: Maguire M, Frois C, and Zurawski N (eds.) *The Anthropology of Security*. London: Pluto Press, pp. 104—117.
- Garriot W (2013) Introduction. Police in practice: Policing and the project of contemporary governance. In: Garriott W (ed.) *Policing and Contemporary Governance. The Anthropology of Police in Practice*. New York: Palgrave MacMillan, pp.1—30.
- Geertz C (1973) *The Interpretation of Cultures*. New York: Basic Books.
- Geschiere P (2006) Witchcraft and the limits of the law: Cameroon and South Africa. In: Comaroff J and Comaroff J (eds.) *Law and Disorder in the Postcolony*. Chicago and London: The University of Chicago Press, pp. 219—246.
- Gilroy P (1987) *There Ain't No Black in the Union Jack*. Chicago: The University of Chicago Press.
- Godorecci BJ (1993) *After Machiavelli: "Re-Writing" and the "Hermeneutic Attitude"* West Lafayette: Purdue University Press.
- Goffman A (2014) *On the Run: Fugitive Life in an American City*. Chicago: The University of Chicago Press.
- Gowricharn R and Çankaya S (2015) Policing the nation: Acculturation and street-level bureaucrats in professional life. *Sociology*, Online First.
- Greer C and McLaughlin E (2010) We predict a riot? Public order policing, new media environments and the rise of the citizen journalist. *British Journal of Criminology* 50(6): 1041—1059.

- Harcourt B (2007) *Against Prediction: Profiling, Policing, and Punishing in an Actuarial Age*. Chicago and London: The University of Chicago Press.
- Harkin DM (2015) The police and punishment: Understanding the pains of policing. *Theoretical Criminology* 19(1): 43—58.
- Hobsbawm E (1969) *Bandits*. London: Abacus.
- Hornberger J (2010) Human rights and policing: Exigency or incongruence? *Annual Review of Law and Social Science* 6: 259—283.
- (2011) *Policing and Human Rights. The Meaning of Violence and Justice in the Everyday Policing of Johannesburg*. Abingdon: Routledge.
- Human Rights Watch (2015) World Report 2015. Available at: <https://www.hrw.org/world-report/2015> (accessed 3 December 2015).
- Jauregui B (2013) Dirty anthropology. Epistemologies of violence and ethical entanglements in police ethnography. In: Garriot W (ed.) *Policing and Contemporary Governance. The Anthropology of Police in Practice*. New York: Palgrave and MacMillan, pp. 125—153.
- Klockars CB (1980) The Dirty Harry problem. *Annals of the American Academy of Political and Social Sciences* 452: 33—47.
- Koskela H (2004) Webcams, TV shows and mobile phones : Empowering Exhibitionism. *Surveillance & Society* 2(2/3): 199—215.
- Malinowski B (1926) *Crime and Custom in Savage Society*. New Brunswick and London: Transaction Publishers.
- Mutsaers P (2014) An ethnographic study of the policing of internal borders in the Netherlands. Synergies between criminology and anthropology. *British Journal of Criminology*, 54(5): 834—848.
- (2016) Review of “Illegality, Inc. Clandestine migration and the business of bordering Europe,” Ruben Andersson (2014). Oakland: University of California Press. *Social Anthropology*, 24(1): 101—102.
- (submitted) Police, anthropology and publicity: The hierarchy of credibility. *American Ethnologist*.
- Mutsaers, P, Simpson, J and Karpiak, K (2015) The anthropology of police as public anthropology. *American Anthropologist*, 117(4): 786—789.
- Orwell G (2009 [1936]) *Shooting an Elephant*. London: Penguin Books.
- Owen O and Cooper-Knock SJ (2015) Between vigilantism and bureaucracy: Improving our understanding of police work in Nigeria and South Africa. *Theoretical Criminology* 19(3): 355—375.
- Quinney R (1970) *The Social Reality of Crime*. New Brunswick and London: Transaction Publishers.
- Rainie L and Wellman B (2012) *Networked: The New Social Operation System*. Cambridge: MIT Press.
- Rogers R (2013) *Digital Methods*. Cambridge: MIT Press.

- Scheper-Hughes N (2006) Death squads and democracy in Northeast Brazil. . In: Comaroff J and Comaroff J (eds.) *Law and Disorder in the Postcolony*. Chicago and London: The University of Chicago Press, pp. 150—187
- Scott JC (1990) *Domination and the Arts of Resistance: Hidden Transcripts*. New Haven and London: Yale University Press.
- Taylor J (2013) “We are all Oscar Grant”: Police brutality, death and the work of mourning. *Transforming Anthropology* 21(2): 187—197.
- The Economist (2015) Lessons from Ferguson. Available at <http://www.economist.com/news/united-states/21646252-step-one-stop-using-cops-tax-collectors-lessons-ferguson> (accessed 3 December 2015).
- Treviño AJ (2000) “Introduction to the Transaction Edition”. In: Quinney R, *The Social Reality of Crime* (original published in 1970). New Brunswick and London: Transaction Publishers.
- Turkle S (1995) *Life on the Screen: Identity in the Age of the Internet*. New York: Simon & Schuster.
- United States Department of Justice (2015) Investigation of the Ferguson Police Department. Available at <http://www.justice.gov> (accessed 10 November 2015).
- Van Laer J and Van Aelst P (2010) Internet and social movement action repertoires. *Information, Communication & Society* 13(8): 1146—1171.
- Verderey K (1996) *What Was Socialism, and What Comes Next?* Princeton: Princeton University Press.
- Waskul DD (2005) Ekstasis and the internet: liminality and computer-mediated communication. *New Media & Society* 7(1): 47—63.
- Weimann G (2016) Going dark: Terrorism on the Dark Web. *Studies in Conflict and Terrorism* 39(3): 195—2016.
- Zedner L (2004) *Criminal Justice*. Oxford: Oxford University Press.

Acknowledgements

We thank Jan Blommaert for his lucid reading of James Scott’s *Domination and the Arts of Resistance*.

Notes

¹ We added the word “requiting” on a personal note, as the car of one of us was in the way of these protesters, and the damage done to it, to say the least, does say something about an idea of “payback” against civic society that may exist in their mind. It needs to be remarked that many of these protesters live in the neighbourhood (*de Schilderswijk*), where the protests also took place. This is one of the poorest neighbourhoods in the country.

² See http://www.vocativ.com/culture/lgbt/gay-wedding-uganda/?ts_pid=2 (accessed 3 December 2015)

³ Orwell: ‘In Moulmein, in Lower Burma, I was hated by large numbers of people – the only time in my life that I have been important enough for this to happen to me. I was sub-divisional police officer of the town, and in an aimless, petty kind of way anti-European feeling was very bitter. No one had the guts to raise a riot, but if a European woman went through the bazaars alone somebody would probably spit betel juice over her dress. As a police officer I was an

obvious target and was baited whenever it seemed safe to do so. When a nimble Burman tripped me up on the football field and the referee (another Burman) looked the other way, the crowd yelled with hideous laughter. This happened more than once' (2009: 31).

⁴ We must admit that the discussion on the effectivity of online resistance is more complex. The example of the Dutch case (the killing of Henriquez) discussed below, demonstrates its effectivity, as do the various anti-police protests in the U.S., when it comes to making the problems salient and mobilizing people to act against police brutality and racism. However, and here we thank an anonymous reviewer for pointing this out, the transnational groups of netizens that may develop online are not the same as the national political-legal community that controls the parameters within which the police function. We do not know to what extent transnational communities constraint or extend the space in which police punishment can take place. This topic requires much more scholarly attention.

⁵ Often times, the alteration is not even visible as such. The algorithms behind our most-used social networks are being updated, and their exact functionality remains a mystery to most users. Whose post ends up on top of your Facebook feed may depend on different variables one day from the next, and not even the most tech-savvy social scientist would be able to take such confounders fully into account.

⁶ Gramsci, in a reference to Machiavelli, adopts the term *realità effettuale* ('effectual reality') to refer to the superficial and mechanical elements of political realism, which tasks itself only with "what is" instead of "what must be". He offsets this against having a perception about the future that is couched in an ideal, a conviction ("*dover essere*"). Cf. Godorecci (1993: 134).